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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/823,279      | 04/13/2004  | Merle R. Ellis       | 00521-04            | 4589             |

7590 11/10/2004  
Walter L. Beavers  
326 South Eugene Street  
Greensboro, NC 27401

EXAMINER

COHEN, AMY R

ART UNIT PAPER NUMBER

2859

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/823,279

Applicant(s)

ELLIS ET AL.

Examiner

Amy R Cohen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/13/04, 10/8/04</u> | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 4, 6, 8-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Wiegman (U. S. Patent No. 1,006,815).

Wiegman teaches a guide for a measuring device comprising: a first longitudinal member (7), a second longitudinal member (8), a means (9) to adjustably connect said first and said second longitudinal members (Figs. 1 and Col 2, line 105-Col 3, line 7); said adjustable connecting means joined to said first and said second longitudinal members to maintain said longitudinal members in parallel alignment (Figs. 1 and 2).

Wiegman teaches the guide wherein said adjustable connecting means comprises a threaded member (Col 3, lines 49-56).

Wiegman teaches the guide wherein said adjustable connecting means comprises a pair of threaded members (Figs. 1 and 2).

Wiegman teaches in combination, a measuring device and a guide, said guide attached to said measuring device (Figs. 1 and 2), said measuring device comprising: a base (12); a level (13), said level pivotally joined to said base (Fig. 4 and Col 3, lines 24-40, specifically lines 37-40), and a protractor (20), said protractor mounted on said base (Fig. 1); said guide comprising a first (7) and second (8) longitudinal member, a pair of adjustable members (9); said pair of

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adjustable members each attached to said first and said second longitudinal members to maintain said guide on said measuring device (Figs. 1 and 2).

Wiegman teaches the combination wherein said base is pivoted from said level at a desired angle and said guide is attached to said base and said level (Figs. 1, 2, and 4).

Wiegman teaches a method of pattern marking using a measuring device having a pivotable base and a guide having a pair of longitudinal members adjustably connected comprising the steps of: opening the measuring device to a desired angle (Col 3, line 57-Col 4, line 70); placing the guide over the opened measuring device (Col 4, lines 77-94); and tightening the guide thereon (Col 4, lines 94-105).

Wiegman teaches the method comprising the step of placing the guide against the edge of a blank with the measuring device atop the blank (Col 4, lines 94-112).

Wiegman teaches the method comprising the step of marking the blank along the outside of the measuring device (Col 4, lines 112-124).

Wiegman teaches the method comprising the step of removing the guide and measuring device from the blank (Col 4, lines 105-124 and Figs. 1 and 2).

Wiegman teaches the method comprising the step of cutting the blank along the marking (Col 4, lines 124-128).

Wiegman teaches the method comprising the step of placing the guide and measuring device at another position along the blank (Col 4, lines 105-124).

Wiegman teaches of repeating the steps (Figs. 1 and 2 show that the method has been repeated).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 5, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiegman in view of Jones (U. S. Patent No. 3,153,859).

Wiegman discloses the guide as described above in paragraph 2.

Wiegman does not disclose the guide wherein the threaded members comprise resilient members, wherein the resilient members comprise a pair of springs, each of said springs positioned on a different one of said threaded members.

Jones discloses a guide (22) wherein the threaded members (29) comprise resilient members (29b), wherein the resilient members comprise a pair of springs, each of said springs positioned on a different one of said threaded members (Fig. 9, Col 2, lines 31-40 and Col 4, lines 8-31).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the guide of Wiegman to include a spring for each threaded member, as taught by Jones, in order to maintain a pressure between the two longitudinal members (as suggested by Jones, Col 1, lines 18-26 and lines 36-46, that the coiled springs maintain a "variable friction pressure" between the members held by the threaded members).

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*Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose guides and measuring devices Marty (U. S. Patent No. 5,388,340), Mitchell (U. S. Patent No. 2,719,548), Berggren (U. S. Patent No. 1,059,264), Adams (U. S. Patent No. 1,046,362), Osmonson (U. S. Patent No. 912,605), Townsend et al. (U. S. Patent No. 650,436), and Taylor (U. S. Patent No. 538,051).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC  
November 8, 2004



Diego Gutierrez  
Supervisory Examiner  
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